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6 UNITED STATES DISTRICT COURT  
7 WESTERN DISTRICT OF WASHINGTON  
8 AT TACOMA

9 BRUCE DAVID LAVINE,

10 Plaintiff,

11 v.

12 HAROLD CLARKE, *et al.*,

13 Defendants.  
14

No. C08-5195 FDB

ORDER ADOPTING REPORT AND  
RECOMMENDATION DISMISSING  
ACTION WITH PREJUDICE

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16 The Magistrate Judge recommends that Defendant's motion for summary judgment be  
17 granted and this prisoner civil rights action be dismissed with prejudice. The Plaintiff did not  
18 respond to the motion to dismiss and has not filed an objection to the Report and  
19 Recommendation. As detailed by the Magistrate Judge, Plaintiff has failed to show a denial of  
20 access to courts. Further, Plaintiff has failed to allege facts showing personal participation by the  
21 Defendants, and Defendants are entitled to qualified immunity from suit.  
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23 The Court, having reviewed the Report and Recommendation of Magistrate Judge J.  
24 Richard Creatura, and the remaining record, does hereby find and ORDER:

25 (1) The Court adopts the Report and Recommendation;

26 (2) The Motion for Summary Judgment is **GRANTED**. This action is **DISMISSED  
WITH PREJUDICE** for the reasons set forth in the Report and Recommendation.

ORDER ADOPTING REPORT AND RECOMMENDATION- 1

1 (3) The Clerk is directed to send copies of this Order to Plaintiff, and to the Hon. J.  
2 Richard Creatura.

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4 DATED this 23<sup>rd</sup> day of June, 2009.

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8 FRANKLIN D. BURGESS  
9 UNITED STATES DISTRICT JUDGE  
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